IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

Bail Appl..No. 6654 of 2007()

CRIME NO. NOT KNOWN, PALLURUTHY POLICE STATION

PETITIONER : ACCUSED:

LALKUMAR, SHANTHINEKETHAN,
PAMBAYIMOOLA, EDAKOCHI.

BY ADV. SRI.SHYAM K.L.

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6654 of 2007

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Dated this the 16th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations in a crime registered for offences punishable under Sections 420 and 406 I.P.C.

2. The crux of the allegations against the petitioner is that he had fraudulently dealt with a vehicle which was handed over to him by the defacto complainant on the basis of an agreement for sale. The vehicle was not traceable. It is apprehended that the vehicle has been dismantled and disposed of by the petitioner. Crime has been registered on the basis of a private complaint filed by the defacto complainant before the learned Magistrate and referred to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent of the allegations levelled

against him. He is only a vehicle broker. He does not purchase the vehicles in his name. He only brokers the deal between individuals. In these circumstances the petitioner does not deserve to endure the trauma of arrest, if any of the parties to such a deal brokered by him had committed any culpable act. The petitioner may, in these circumstances be granted anticipatory bail, prays the learned counsel.

3. The learned Prosecutor opposes the application. The case diary was placed before me for my perusal. I have perused the same. The learned Prosecutor points out that the document seized by the police in this case does clearly show that the petitioner was not a mere broker and was the one who had purchased the vehicle from the defacto complainant. The petitioner has to be thoroughly interrogated. The vehicle which has been clandestinely disposed of has to be traced. In these circumstances the petitioner may not be permitted to arm himself with an order of anticipatory bail, submits the Prosecutor. He points out that the petitioner has been absconding for a long period of time. The crime was registered as early as on 17.8.2006, but the petitioner was not available for apprehension.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Prosecutor. I am unable to perceive any features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This, I agree with the learned Prosecutor, is a fit case where the petitioner must be directed to appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)

Judge

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